

UNITED STATES DISTRICT COURT
FOR THE DELAWARE DISTRICT

phillip allen dye and rebecca jane dye

Appellant s

V.

Michael B. Joseph Bankruptcy Court Trustee

Appellee

) Docket No:

) Case No: Del:

) Reference Chapter 13 Bankruptcy

) Case 05-11619-JKF



**Petition Demand for Execution of Automatic Stay
And Joinder Appeal Brief**

Venue

1. For the Record the Appellants phillip allen dye and rebecca jane dye being Natural Living Souls of the Natural Genealogy and Lineal Descendant of the Aboriginal Native American National Peoples by Birthright of the North American United States Republic and by Birthright Inheritance Lineal Descendant and being Heirs in the Pembina Nation Little Shell Band Sovereign Nation of North America and the Moorish North America Sovereign Nation possessing North American Nationality. AND, as such is establishing the Venue Jurisdiction by the Terms and Conditions of this Automatic Stay and Appeal Brief as published in the Exhibit A titled "Notice of Accepting Constitutions And Oath of Office" and the Fiduciary Duty of Public Servants, is being made part and partial of this Automatic Stay and Joinder Appeal Brief as published in Exhibit A.

2. The Venue of the Appellants and the Venue of the Appellant causes of this Automatic Stay and the Joinder Appeal Brief with respect to the subject of Private Property at issue in this matter referencing the Chapter 13 Bankruptcy Case 05-11619-JKF; Property located within the boundary of the North America Sovereign Delaware Republic State. See Article 4 §-4 United States of America Constitution.

JURISDICTION

3. Title 28 United States Code (USC) provides that this Most Honorable Court has jurisdiction over any claim against the United States founded either upon the Constitution, any Act of Congress or any Regulation of an Executive Department, or upon any express or implied Contract with the United States, inter alia. Jurisdiction over this matter is conferred by Title 28 USC §-1491; and, that Title 28 USC at the §-158(a)(d) provides that this Court has jurisdiction to Review an Appeal from a Decision of a Bankruptcy Court Judge.

CAUSES FOR THIS AUTOMATIC STAY

4. On August 26, 2005 the Bankruptcy Court for the District of Delaware issued an order in the case referenced in the caption Terminating Automatic Stay for Prospective Relief from the Automatic Stay under the bankruptcy petition and issuing a two-year prohibition denying phillip allen dye or any other party from filing a bankruptcy petition on the property under consideration in this appeal from filing any future Bankruptcies.

5. On August 30, 2005 the Bankruptcy Court Judge for the District of Delaware issued a final order dismissing the Bankruptcy Case 05-11619-JKF barring the debtors and any party having an interest in the property from any future motions or any actions including bankruptcy petitions.

6. On September 1, 2005 phillip allen dye filed a Notice of Appeal and Automatic Stay with the clerk of the Bankruptcy Court and ordered the transcript of the hearing.

7. Appellants phillip allen dye and rebecca jane dye are respectively and reasonably demanding this Court Order the Execution of the Automatic Stay until this Appeal is reviewed and a decision is given. The issues at issue in this Bankruptcy Case are such as to sufficiently justify and substantiate immediately executing the Automatic Stay.

8. The procedure and administration of the Bankruptcy Case by the Administrative Judge and the

Court Trustee and the Attorneys representing their prospective clients exhibited gross negligence and violation of the Due Process and refusing equal access to the Substantive Due Process to the appellants.

9. Without the property security and protection of the Automatic Stay Indymac Bank will quickly attempt to take a wrongful foreclosure possession of the property in question without having to address the issues in question and at issue in the dismissed bankruptcy which within the meaning of the Fifth Amendment to the United States Constitution constitutes a taking of private property without compensation resulting in the abrogation and the diminishing of the appellants substantive rights and equal access to due process.

10. Appellants respectively reasonably demand that this Most Honorable Court immediately Order the Automatic Stay which within the meaning of the Forth Amendment is securing the right of the appellants to be secure in person, houses, papers, and private property effects, against unreasonable seizures and a taking via fraudulent foreclosure which within the meaning of the Forth Amendment to the United States Constitution constitutes a breach of said amendment and the protected security therein and within the meaning of the Fifth Amendment to the United States Constitution constitutes a taking without compensation resulting in abrogation and diminishing of substantive rights.

11. Pursuant to the Civil Rules of Procedure Rule 62(f) the appellants are entitled to the automatic stay and this Court is held therein such stay as would be accorded the appellants which within the meaning of the Forth Amendment that is securing the private property of the appellants until a decision is rendered by the court in this appeal matter. The Appellants are in Honor and are maintaining such Honor throughout this Due Process; Whereas, the Creditors and their Attorneys have Dishonored themselves and the Bankruptcy Court and the Appellants; And the Administrative Judge and the Bankruptcy Court Trustee have Dishonored the Appellants and have Dishonored the Bankruptcy Court.

12. Pursuant to the Civil Rules of Procedure Rule 61 any admission or exclusion of evidence or any

act or decision that affects a substantive right is sufficient to disturb any judgment or order or otherwise, which within the meaning of this rule holds the Court to support the Automatic Stay.

13. WHEREAS the Bankruptcy Court Trustee and the Administrative Judge and the attorneys for the clients have omitted and refused to provide evidence in truth to validate their disputed claims in according with and pursuant to 15 USC §-1692 et seq and the demands of Bankruptcy Court Form B10 Proof of Claim which demands providing supporting documentation to validate the truth and honor of the claim. The evidence record and case record is absent of such documentation in truth and honor.

14. WHEREAS the administrative Judge granted an order to terminated the Automatic Stay and to dismiss the Bankruptcy based on false claims and non-existing evidence in fact validating the claims made by the creditors while denying the Bankruptcy Debtors and phillip allen dye and rebecca jane dye equal and full access to the Due Right Process from presenting evidence in fact that affirms the fraudulence of the alleged claims of the creditors; And as such with in the meaning of the Fifth and Fourteenth Amendments to the Constitution for the United States of America constitutes an abrogation of and a diminishing of private property rights and all substantive rights antecedent thereto; .And as such thus constitutes a taking within the meaning of the Fifth Amendment to the Constitution for the United States of America.

15. Pursuant to 28 USC Judiciary and Judicial Procedure Part V Procedure Chapter 131 Rules of the Court §-2072(a)(b) Rules of Procedure and Evidence that holds that “Such rules, orders, decisions or otherwise that abridge, enlarge or modify any substantive right shall be of no further force or effect after such have taken place.” such as the dismissal order of the Bankruptcy Case 05-11619-JKF and the dismissal order of the Bankruptcy Petition Automatic Stay; And the order denying phillip allen dye and rebecca jane dye from filing future Bankruptcy Petitions to secure their property interest within the meaning of 28 USC §-2072(a)(b) are no further force or effect after such have taken place.

16. AS SUCH, the order terminating the Automatic Stay and the order dismissing the Bankruptcy case 05-11619-JKF as a matter of law is void having no further legal or lawful force or effect, whereas the case records clearly evidence the abrogation and the diminishing of private property rights and all substantive rights antecedent thereto including denying equal access to the substantive due Process Right.

17. Pursuant to Title 28 US Code the Judiciary and Judicial Procedure, Part V, Procedure Chapter III, General provisions at the §-1652 the sub-title, State Laws as Rules of Decision; is publishing the statutory Judicial claim that the rules of decision in civil actions in the courts of the United States are regarded as decisions except where the Constitution or Treaties otherwise require or provide.

18. As such the decisions issued by the Bankruptcy Court Administration Judge in this case cannot be regarded as a decision having legal effect or legal force because there are constitutional provisions in this matter that would be abrogated and diminished should the Automatic Stay be denied; WHEREFORE the System of EQUITY Jurisprudence demands the execution of the Automatic Stay.

19. Therefore, with the preponderance of the forensic evidence published herein and within the true meaning of the Fourth Amendment to the Constitution for United States of America the Appellants Respectively and Reasonably Demand that this Most Honorable Court Execute the Automatic Stay keeping the property in question in this matter secure and in Honor during this appeal due process.

Joinder of Appeal Brief

20. Paragraphs 1- 19 are incorporated herein by reference as though fully set forth herein.

21. Assuming the actions alleged in paragraphs 1-19 to be lawfully taken, acts of the Administrative Judge constitutes a taking of Appellants private property and private property rights and all other rights antecedent thereto for which compensation is due within the meaning of the Fifth Amendment to the American United States Constitution.

22. The Bankruptcy Court Administrative Judge Ordered the Hearing To Show Cause Why this case

should not Be Dismissed was heard on August 30, 2005. The Transcript of that hearing is validating and affirming the claims made by the appellants herein; Whereas phillip allen dye was not given access to the due right process to submit prepared evidence responding to the Show Cause Order. The Administrative Judge instead of officiating as a non-biased official securing the due process right and access thereto within the meaning of Article VI of the Constitution for the United States of America, the Judge;

- A. Assumed the practicing of law from the Judicial Bench;
- B. Argued as an attorney on behalf of the non-substantiated claims of the creditors;
- C. Exhibited a volition toward supporting the creditor claims with the absent of evidence;
- D. Constantly interrupted the Appellant phillip allen dye each time he tried to give evidence;
- E. Constantly raised issues having no relevancy to the issue of validating and claim proof;
- F. Constantly exhibited a Judicial Bias To favor the Creditors even in the absence of evidence to support the creditor claims;

And, as such constitutes a breach of the Constitution and of the Oath of Office within the meaning of Article VI to the Constitution for the United States of America.

23. The Administrative Judge breached the oath of office by refusing to regard and uphold the Constitution as supreme by denying phillip allen dye access to the due right process. The Appellant was denied unmolested time to give the evidence published and filed in the record to be given at and for the hearing to show cause as listed below;

- A. Proof of Claim filed establishing that phillip allen dye did effect a Choated Superior Secured Interest in the property in question;
- B. Notice Showing Cause and the Demand to Dismiss Creditor Claims With Prejudice;
- C. A Proof of Claim filed against Creditor the Indymac Bank;
- D. A Proof of Claim filed against Creditor the Internal Revenue Service;

- E. A Proof of Claim filed against Creditor the Delaware Division of Revenue;
- F. Motion to Grant Proof of Claims filed as evidence by appellant;
- G. Motion to Dismiss Creditor Claims With Prejudice;
- H. Motion to Enforce Penalty Against the Creditor For filing False Claims;
- I. The Mandatory Judicial Notice Rules of Evidence Rule 201: Authorities Supporting Notice Showing Cause and the Demand to Dismiss Creditor Claims with Prejudice;

24. The Administrative Judge Judith K. Fitzgerald dismissed all of the above evidence without giving the appellant any access to the due right process which constitutes a deprivation of, and abrogation of, a diminishing of secured property rights and all other substantive rights antecedent thereto within the meaning of the Fourth the Fifth and the Fourteenth Amendments To The Constitution For the United States of America; And constitutes a Breach of the Oath of Office within the meaning of Article VI To the United States Constitution For America; And constitutes a Breach of the Fiduciary Duty of Performance under contract obligation within the meaning Article VI To The United States Constitution For America;

25. And as such constitutes a Breach of Oath of Office and Fiduciary Duty of Performance within the meaning of the Notice of Acceptance of the Contract Offer of the Constitutions and Oath of Office from phillip allen dye and rebecca jane dye which demands performance of the Public Service Duty; And as such Court Trustee Michael B. Joseph and Attorneys Thomas D. H. Barnett and Neil F. Dignon and Stuart B. Drowos and Charles Keene all being bound their Oath of Office to in Honor Respect and uphold the Due Right Process entitling the Appellants full access thereto and the secure protection thereof; Each did Breach that Oath by conspiring with the Administrative Judge Judith K. Fitzgerald denying the Appellants such Access; And; As such constitutes a taking of rights within the meaning of the Fifth Amendment To the United States American Constitution.

26. The Record in the Bankruptcy Case 05-11619-JKF is absent of any evidence in fact validating

the claims filed by the Attorneys Thomas D H Barnett and Neil F. Dignon for Indymac Bank, or the claims filed by Attorneys Charles Keene and Ellen W. Slights for the Internal Revenue Service facts nor the claims filed by Deputy Attorney General Stuart B. Drowos for the Delaware Division of Revenue; Nor did any of the Creditors nor their Attorneys file or Perfect their alleged claims with the Secretary of States pursuant to the Uniform Commercial Code Article 9 procedure to secure an interest to enable them to be able to State a Claim Upon Which Relief Can Be Granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure; And as such constitutes the presentment of false claims in the Bankruptcy Court within the meaning of 18 USC §-152 and §-3571 demanding enforcement of penalty as cited on Bankruptcy Proof of Claim for presenting a fraudulent claim.

27. On September 12, 2005 the Appellants did file a Præipe with the Clerk of Court requesting a copy of the evidence on file in the evidence file validating any Creditor claim. As to the date of this Brief the Appellants have no response from the Clerk of the Bankruptcy Court.

28. THEREFORE, with the preponderance of the forensic evidence published herein and within the meaning of Article VI and the Fourth Amendment and the Fifth Amendment to the Constitution for United States of America the Appellants Respectively and Reasonably Demand that this Most Honorable Court Over Turn and Annul and Declare Void the Orders issued from Bankruptcy Court; And issue the Order Granting the Claims of the Appellants as published and on file in the record within the meaning of the Oath of Office taken by the Judge(s) reviewing this Appeal.

29. The Appellants phillip allen dye hereby publish and states and attest under penalty of perjury that the facts contain herein are true.

Date September 19, 2005

Autograph: phillip allen dye

Autograph: rebecca jane dye

Affidavit of Service

phillip allen dye is publishing this fact that he served the above Petition Demand for Execution of Automatic Stay And Joinder Appeal Brief by First Class Mail to the following men and women on the date September 19, 2005.

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Georgetown, Delaware 19947-0947

phillip allen dye

phillip allen dye
In care of: 403 Union Church Road
Townsend, Delaware [19734]



***The North America Grand Counsel of Nations
The Pembina Nation Little Shell Bands
The Moorish American◊Great Seal Divinitas***

*The Indigenous Peoples of the North Americas Grand Counsel of Nations including the adjoining Islands.
In care of: 132 Main Street Post Office Box 508, Odessa City, Delaware North America Republic Postal Zone [19730] Non Domestic*

Notice of Accepting Constitutions Oath of Office And Fiduciary Duty

Notice for Public Servants:

1. Judith K Fitzgerald dba: United States Bankruptcy Judge
2. Michael B Joseph dba: United States Bankruptcy Court Trustee
3. Thomas D H Barnett dba: Attorney for Creditor Indymac Bank
4. Neil F Dignon, Esquire dba: Attorney for Creditor Indymac Bank
5. Ellen W Slights dba: Assistant United States Attorney for the Creditor Internal Revenue Service
6. Stuart B Drowos dba: Deputy Attorney General for the Creditor State of Delaware Division of Revenue
7. Charles Keene dba: United States Attorney for the Creditor Internal Revenue Service
8. The Judge(s) dba: United States Judges For the United States Court of Appeals For the Third District

Exhibit A
2 Pages

Point of Law

All contracts commence with an offer and only become binding upon acceptance. See: "Contracts" by Farnsworth, third edition, sect. 3.3, pages 112,113.

The Constitutions of the United States and of the State of Delaware and the Oath of office and the Performance of the Fiduciary Duty as Public Servants thereof the above named PUBLIC SERVANTS, amounts to nothing more than an offer of an intention to act or refrain from acting in a specified way between the respective governments their binding Treaty Contracts and the private American people and for other purposes.

Be it known by these presents that I, phillip allen dye and I rebecca jane dye of the Natural Genealogy Heirs Lineal Descendants of the Native American Peoples of America Territories do hereby accept the Constitutions of the United States and of the State of Delaware and the Oath of Office and the Oath of Performance of the Fiduciary Duty of the above named PUBLIC SERVANTS as your open and binding offer of promise to form a firm and binding contract between the respective governments, their political instrumentalities and the above named PUBLIC SERVANTS and phillip allen dye and rebecca jane dye in their Proper Private Native America National capacity.

I expect that, as PUBLIC SERVANTS, you will perform all of your promises duties while staying within the limitations of your constitutions, regarding all Treaties with the United States as Supreme and Superior in Law in your Courts as published by your constitution creating no unfounded presumptions, seeking only the true facts and telling the truth at all times and

respecting and protecting our secured substantive rights of personal liberty and private property and all rights antecedent thereto.

The foregoing Notice of Acceptance of Constitutions and of Oath of Office and Oath of Performance of Fiduciary Duty is made Ab initio explicitly without recourse and now constitutes a binding contract and any deviation therefrom will be treated as a breach of contract and a violation of substantive due process.

VERIFICATION

I, phillip allen dye and I rebecca jane dye declare under penalty of perjury in accordance with the laws of the United States of America that the foregoing is true, correct and complete to the best of our knowledge and belief.

Date:

Autograph: phillip allen dye

Autograph: rebecca jane dye